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CANADIAN FACTS.

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The Honourable and Independent Member is most respectfully called to read this Pamphlet, in hopes he will present a Petition for John Oliver.

If Messrs. William H. Draper and Clark Gamble can produce any legal title that may have been issued previous to Petitioner's Deed, or if they can show by legal law proceedings (that have been attempted in this case) any right to dispossess him of his property, also if the Canadian Government can produce any legal document that has been signed by Petitioner, he will relinquish all claim whatever.

But should it not seem good to the honourable House to put Petitioner in possession of his land he is willing to accept of full compensation.

SAMUEL OLIVER,

Agent for ~~John Oliver~~.

Mr. Lever's,

King Street, Whitehall,

Until 15th March inst.

T.H.

XI

D-126

CANADIAN FACTS.

PETITION OF JOHN OLIVER.

To His Excellency SIR EDMUND WALKER HEAD, Bart., Governor General of British North America, &c. &c. &c.

The humble petition of "John Oliver," of the city of Toronto, in the county of York and province of Canada,

MOST RESPECTFULLY SHEWETH,

That your Petitioner has sustained serious loss, occasioned by the following occurrence, viz., That in the year one thousand eight hundred and thirty-nine, Petitioner purchased, at "government sale," a certain portion of land on the fifth concession of the township of Scarborough, for which Petitioner received the "Queen's patent deed," bearing date the fifth day of March, one thousand eight hundred and forty.

That your Petitioner erected a dwelling-house, barn and out-houses, on lot number ten of said concession, and resided thereon, cleared from twenty to twenty-four acres of land, planted an orchard, and had from sixteen to twenty acres bearing crop, when a claim was set up by "Messrs. Clarke Gamble and William H. Draper," barristers-at-law. This said claim was, to follow chain lengths out of the fourth into the fifth concession of the aforesaid township.

The first suit was tried before Mr. Justice McLean, in the year one thousand eight hundred and forty-one, and was decided in favour of your Petitioner. Notwithstanding this, in the fall of the year one thousand eight hundred and forty-two, three several suits were brought before the late Justice Haggerman (deceased), who, although he had Petitioner's deed lying before him, charged against it in favour of claimants. The case was tried before three different companies of jurymen, two of which were led to believe that your Petitioner had no claim whatever to the land in question, and gave their verdict accordingly. The third, however, refused to give their verdict until they had examined the titles, which, being allowed, they brought in a verdict of one hundred and fourteen pounds in favour of Petitioner. Yet, notwithstanding this, the Judge entered one shilling damages against Petitioner.

Before handing the "deed" to the Judge, it was placed before Mr. Draper, whose signature was attached to it, he being Attorney General at the time it was granted; and when asked if he denied his signature, he replied "no," but that it was granted under the old government, but that this was a new one.

CANADIAN FACTS.

The next proceeding was, serving a writ of ejectment on Petitioner, to which said Petitioner entered appearance in person. The trial was postponed, Petitioner receiving no notice of the same until Sheriff

Jarvis came to Petitioner's house and asked possession; to said demand Petitioner offered to comply if he (Jarvis) had legal authority; but on Petitioner making said offer Jarvis went away without doing anything.

About the middle of June, in the following year, Deputy Sheriff Beard and four armed men entered your Petitioner's house, seized a gun and carried it away; which gun said Petitioner never saw again. Eight days afterwards, the aforesaid Deputy Sheriff returned with fourteen armed men, arrested the Petitioner, his son, and brother-in-law, and bound them in irons, and turned his wife and (7) children out on the town line. On the way to Toronto, Beard's party beat Petitioner in a most brutal manner (although bound in irons), and afterwards lodged Petitioner and his brother-in-law in gaol, to await their trial. All these proceedings were taken on the authority of a warrant, granted by the late Alderman Dixon, to arrest them, although twenty miles distant from the city. During the first four days of their confinement, they were brought five times through the city of Toronto, from one magistrate to another, to get them committed, but in vain. At length, Alderman Dixon himself committed them for fourteen days.

Immediately upon committal, a document containing fourteen interrogations was served upon your Petitioner, to answer on oath, without allowing any time for consideration. They were then brought before Chief Justice Robinson (Uncle to Clarke Gamble), tried without a jury, sentenced to three months' close confinement in gaol, fined ten pounds each, and also to find security in a large amount to keep the peace for two years.

In this last trial the Queen was made plaintiff; Clarke Gamble (one of the claimants) Queen's councillor.

Lord Metcalfe, then Governor General of Canada, was petitioned in the matter; the result of which was, he was pleased to order their liberation, and also struck off the fines. Nevertheless, in the face of this order, Petitioner and his brother-in-law were detained in prison for three weeks after, and every fraction of the fines exacted: to pay which, Petitioner was compelled to dispose of every thing he had left, at an enormous sacrifice.

Upon the fourth day of Petitioner's imprisonment, three of Beard's men, and a fourth unknown, set fire to Petitioner's dwelling house, out-buildings, and all the property they contained; and this outrage, too, was committed in open daylight (Beard's party also refusing to allow Petitioner's son to remove any portion of the property from the building.)

After this, Petitioner and brother-in-law were arraigned by the aforesaid "Robert Beard," and tried at the Quarter Sessions. Petitioner demanded a copy of the indictment, which was refused on this trial. Petitioner then summoned "Mr. Sheriff Jarvis," who swore that he had no authority to dispossess Petitioner, and that he did not know on what authority the "Deputy Sheriff Beard" had taken him. Notwithstanding this, Judge Burns (in his charge to the jury) stated that they (the jury) were not to take into consideration whether the writ was legal or not, but, if Beard was obstructed

in doing his duty. Petitioner and his brother-in-law were therefore on that charge sentenced to pay a fine of one pound each and costs.

Petitioner further complains that, although during the time of his imprisonment his house and out-buildings and property therein were all burned, and the crops of from sixteen to twenty acres were wickedly and maliciously destroyed, in open daylight, that he could not get any magistrate that would commit any of the perpetrators of the outrage.

Moreover, all letters addressed to any member of Petitioner's family (during the time the aforesaid law proceedings were being carried on) were opened by the post office officials; which proceeding was sanctioned and supported by the Post Master, Mr. Berczy, of Toronto.

Your Petitioner therefore humbly prays Your Excellency, as Her Majesty's representative in this Province, to cause Petitioner to be reinstated, in full and peaceable possession, of said lands, on lots eight, ten and eleven, in the fifth concession of the township of Scarborough aforesaid, for which he holds a "patent deed;" or, should your Excellency prefer, your Petitioner would refer the whole case to arbitration; one arbitrator to be chosen by your Excellency and another by Petitioner.

Should the arbitrators fail to bring about a just and amicable settlement, your Petitioner further prays that your Excellency will be pleased to cause his petition to be forwarded to Her Majesty's government, for their decision.

And your Petitioner as in duty bound will ever pray, &c.

JOHN OLIVER, Petitioner.

Toronto, June 25th, 1858.

N.B. Please address SAMUEL OLIVER,

61, Victoria Street, Toronto,

as agent for Petitioner.

AFFIDAYIT OF WILLIAM OLIVER.

HOME DISTRICT, } William Oliver of the Township of Whitby, yeoman,
to wit: } maketh oath and saith, that he was present on lot number
in the fifth concession of the Township of Scarboro' in the Home District,
the early part of the month of June of 1844, and saw Robert Beard, Deputy Sheriff, and a party of armed men rob the premises of John Oliver of an empty gun, and no attempt was made to rescue the same.

Deponent further saith, that a few days after, the said Robert Beard returned with a party of armed men, seized on John Oliver and James Drennon putting hand-cuffs on each of them, and no resistance was made by either of them; they then turned out the family of the said John Oliver, and the greater part of his household furniture, but from his office-houses they removed nothing.

Deponent further saith, that he accompanied prisoners to Christopher Hall's Tavern, a distance of about two miles, where he saw Robert Beard and his party holding John Oliver down on the floor, after binding his legs with ropes they then commenced kicking and beating the prisoner (John Oliver) in a most barbarous manner, his hands at the same time confined in irons.

Deponent further saith, that towards the latter part of the same month, four men that were in company with the said Robert Beard, namely, Robert Harrison, deceased, John Harrison, John McCright, and a stranger whom deponent doth not know, at the time when the said John Oliver and family were dispossessed, assembled on the aforesaid premises, called on deponent to remove the property belonging to the said John Oliver out of his office-houses, telling him they were going to fire the premises, which they did.

Deponent further saith, that he immediately commenced to remove said property, but was prevented by said party, and all that was contained in said office-houses was consumed.

WILLIAM OLIVER.

Sworn before me this 25th day of November, 1848.

JOSEPH WORKMAN, a Magistrate.

Alderman of the City of Toronto.

LETTER TO LORD ELGIN.

To His Excellency LORD ELGIN, Governor General of British North America, &c. &c. &c.

Your humble petitioner, John Oliver of the City of Toronto, acknowledges the receipt of a letter from the Civil Secretary's office, Montreal, bearing date the eighth day of September, in the year of our Lord 1848, in answer to petitioner's memorial of the fifteenth of August in the year aforesaid.

Your petitioner would humbly shew, that in said answer there are unfounded charges against petitioner for not making "prompt application to the government" for redress; this was done both in person and by petition, but to no effect.

Your petitioner acknowledges that two men were appointed by the government in the year 1845 to value the losses sustained by reason of Incendiarism and robbery with a firm promise of full remuneration for the sustenance of all damages by petitioner.

Your petitioner would humbly show that he received no information of their valuation until the receipt of the letter of the eighth of September, 1848, as above mentioned, which plainly shews it was only a mockery of justice. As regarding petitioner's damages they have been valued to a considerable amount beyond the sum of £400 of scrip, which would come far short of full remuneration.

Your petitioner is ready to agree to the decision of two disinterested parties, one chosen on the part of the government and one on the part of petitioner, and if these parties cannot agree let them choose an umpire, and petitioner will stand to their award, as he is only looking for justice, which every one of Her Majesty's liege subjects has a right to claim.

Your petitioner humbly prays your Excellency and Honourable Council to reconsider his case and give an answer as to what the result may be.

And your petitioner as in duty bound will pray.

JOHN OLIVER.

Toronto, December 16th, 1848.

THE REPLY.

SECRETARY'S OFFICE.

Montreal, 13th January, 1849.

Sir, I have the honour by command of the Governor General, to inform you that His Excellency has had under his consideration in Council your petition under date the 16th ult., with its accompanying affidavits, praying for a reconsideration of your claim, for compensation for losses sustained by you in consequence of your having been dispossessed of certain lands in the Township of Scarboro', and requesting that the case might be submitted to arbitration.

His Excellency in Council sees no reason to depart from the decision already arrived at by the government upon this subject, and which was communicated to you by Mr. Secretary Sullivan on the 8th of September last. His Excellency cannot therefore accede to your request to have the case submitted to arbitration.

I have the honour to be, Sir,

Your most obedient servant,

J. LESLIE, Secretary.

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JOHN OLIVER.

AFFIDAVIT OF SAMUEL OLIVER.

COUNTY OF YORK, } Samuel Oliver, of the city of Toronto, in the county of
to wit: } York, and province of Canada, maketh oath and saith
That in the month of April, in the year one thousand eight hundred and
forty-five, he was sent by John Oliver, of the said city of Toronto, on a depu-
tation to Lord Metcalfe, then Governor-General of Canada, and residing in
Montreal, respecting serious losses sustained and injuries received by said
John Oliver, in being unlawfully ejected from lands purchased at "Govern-
ment sale" by him, and for which he held the Queen's patent deed. This
deponent, knowing the difficulty he had to contend with to gain an interview
with his Excellency respecting the cause aforesaid, and that in case he had
given his name as Oliver, it would at once place an insurmountable obstacle
in his way, assumed the name of Samuel Glasgow.

That this deponent, having no other opportunity, addressed his Excellency
as he alighted from his carriage, and demanded the support of the aforesaid
John Oliver's deed; to which his Excellency was pleased to respond as fol-
lows, viz.: That he had taken the case under his serious consideration, and
had ordered the support of the deed with full compensation for all losses sus-
tained, and directed this deponent to Mr. LeBontillier, then Commissioner of
Crown Lands.

That the Commissioner aforesaid admitted that Lord Metcalfe had ordered
the support of the deed with full compensation for all losses sustained; but,
nevertheless, stated that he could not support more than one-third of the
same, viz., that portion on which the dwelling-house and out-buildings stood,
that were burned, and without assigning any reason for acting contrary to the
Governor's orders.

That said Commissioner then referred him to the Hon. Dominick Daly, Secretary, who urged this deponent to claim a nominal compensation, and that the matter should be forwarded at once to the proper quarter, and an answer returned in two days.

This was accordingly agreed to, and the sum fixed at one thousand five hundred pounds.

That this deponent, after waiting several days for the promised reply, but in vain, attempted a second time to gain an interview with his Excellency, when, upon passing the gate into the court-yard, he was seized by one of Captain Brownrigg's military servants in plain clothes, and given into the custody of two police officers, who were stationed there for the purpose of preventing his obtaining any further interview with his Excellency, as this deponent was informed by two others, who said they had been placed there on a previous occasion for the same purpose.

That this deponent was then taken before the "Chief of Police," who, upon hearing the charge, refused to take any part in the matter; afterwards before the officer of the regular troops, with a similar result. The last step was to take him before the Mayor of the city of Montreal, who, finding no other cause of complaint, required him to find bail to keep the peace, by not attempting to obtain another interview with his Excellency for a certain period.

That this deponent having no one then in court to give bail for him, wrote to a friend of his to come and do so, when an answer was brought, which this deponent afterwards proved to be a forgery, purporting that his friend could not be bound for him.

That this deponent was then taken to gaol, in default of finding bail, but having a strong impression that said answer was not genuine, wrote again from the gaol to the same friend, who came immediately and gave the required bail.

That also upon the release of this deponent from gaol, Captain Higginson, Lord Metcalfe's private secretary, sent for him, and after questioning him as to whether he was related to the petitioner, John Oliver, or if he would receive any benefit from the settlement of the matter in question, offered to bribe him, first by a small sum, and afterwards stated that he could have anything he asked, as money was no object.

That upon this deponent's refusing to take any bribe, and informing the aforesaid Captain Higginson that whatever he took would be in settlement of the petitioner's claim, an agreement was made to lay the amount of compensation at one thousand five hundred pounds, which Captain Higginson said must first be laid before his Excellency, but nevertheless this deponent might consider the matter as good as settled at that amount. That this, however, as in the former instance, proved a failure.

SAMUEL OLIVER.

Sworn before me at Toronto, this 8th
day of July, in the year 1858,
JOHN RITCHEY, Jun.,
Alderman.

COPY OF GRANT TO JOHN OLIVER.

PROVINCE OF UPPER CANADA.

GEORGE ARTHUR.

VICTORIA, *by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.*

To all to whom these presents shall come—Greeting :

Whereas John Oliver, of the city of Toronto, in the county of York, in the Home District, painter, hath contracted and agreed to and with our Commissioner for the sale of our Crown Lands within this Province, duly authorized by us in this behalf, for the absolute purchase, at and for the price or sum of *£* of lawful money of our said Province, of the lands and tenements hereinafter mentioned and described, of which we are seized in right of our Crown. Now know ye, that in consideration of the said sum of *£* by him the said John Oliver to our said Commissioner of Crown Lands in hand well and truly paid to our use, at or before the sealing of these our letters patent, we have granted, sold, aliened, conveyed and assured, and by these presents do grant, sell, alien, convey and assure, unto the said John Oliver, his heirs and assigns for ever, all that parcel or tract of land, situate, lying and being in the township of Scarborough, in the county of York, in the Home District of our said Province, containing by admeasurement *acres*, be the same more or less, which said *acres* of land may be otherwise known as follows, that is to say: being composed of the rear parts of lots Nos. 8, 10 and 11, in the 5th concession of the said township of Scarborough, commencing at a distance of twenty-six chains on a course of north sixteen degrees west, from the south-east angle of each of the said lots respectively; then north sixteen degrees west, six chains, more or less, to the allowance for road in rear of the said township; then south seventy-four degrees west, twenty chains, more or less, to the allowance for road between lots Nos. 8 and 9, 10 and 11, and to the limit between lots Nos. 11 and 12, respectively; then south sixteen degrees east, six chains, more or less, to lands granted to John White in each of the said lots; then north seventy-four degrees east, twenty chains, more or less, to the place of beginning in each lot.

Recorded 30th March, 1840.

W. H. DRAPER, Attorney General.

COPY OF GRANT TO JOHN WHITE, UNDER WHICH MESSRS. GAMBLE & DRAPER CLAIM.

UPPER CANADA.

PETER RUSSELL.

GEORGE THE THIRD *by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, and so forth.*

To all whom these Presents shall come, greeting :

Know ye, that we, of our special grace, certain knowledge and mere motion, have given and granted, and by these presents do give and grant unto John White, our Attorney General, and his heirs for ever, a certain parcel or tract of land, situate in the township of Scarborough, containing by admeasurement

1,200 acres, with the usual allowance for roads, be the same more or less, being composed of lots number 32 and 33 in the broken front A, and the south part of 32 and 33 in the broken front B, and lots number 8, 10 and 11, in the 4th concession, and situate, lying and being, in the township of Scarborough aforesaid, in the county of York (East Riding), and Home District, of our Province aforesaid, together with all the woods and waters thereon lying and being, under the reservations, limitations and conditions, hereinafter expressed; which said twelve hundred acres of land are butted and bounded, or may be otherwise known as follows (that is to say): beginning on the south east angle of lot number 34, on the bank of Lake Ontario, thence north 16 degrees west 114 chains, thence north 74 degrees east 40 chains, thence south 16 degrees east to Lake Ontario 36 chains, more or less, thence westerly along the bank of the lake to the place of beginning, being 400 acres. Then again beginning in the 4th concession, at the south easterly angle of each lot respectively, and running thence south 74 degrees west in each lot 20 chains, thence north 16 degrees west 134 chains, thence north 74 degrees east 20 chains, thence south 16 degrees east 134 chains, to the place of beginning in each lot; being 800 acres.



LETTER FROM SIR EDMUND W. HEAD.

GOVERNOR'S SECRETARY'S OFFICE,

Toronto, July 12th, 1858.

SIR,—I am directed by His Excellency the Governor General to acknowledge the receipt of your petition, dated 25th June, in which you ask His Excellency to reverse the decision of the ordinary courts of justice. In reply, I am to inform you that His Excellency has no power to comply with your request, and he cannot reinstate you in lands, from which you have been by course of law ejected. He must therefore decline to interfere in the matter.

I return the several documents which accompanied your petition.

I am, Sir,

Your most obedient servant,

R. T. PENNEFATHER.

MR. JOHN OLIVER,
Victoria Street, Toronto.

Keele's Law Manual, on Public Lands, page 189. By the 4 and 5 Vic. chap. 100, sentence 29, the Court of Chancery in Upper Canada, and King's Bench in Lower Canada, authorized to repeal patents issued through fraud or in error or mistake.

By 38 Geo. III. chap. 1, monuments may be placed at the corners of every township and concession, and the lines from the monuments so erected shall be the permanent boundary lines of such township and concession.

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